



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB4966

Introduced 2/5/2016, by Rep. Litesa E. Wallace

SYNOPSIS AS INTRODUCED:

225 ILCS 10/2.22a new	
225 ILCS 10/4	from Ch. 23, par. 2214
225 ILCS 10/6	from Ch. 23, par. 2216
225 ILCS 10/7	from Ch. 23, par. 2217

Amends the Child Care Act of 1969. Defines "quality of care concerns". Allows an applicant for a foster family home license with quality of care concerns who has previously been licensed to operate a child care facility or has provided relative foster care to a child placed by the Department to submit a preliminary application to the Department of Children and Family Services. Allows the Department to issue a foster family home license to an applicant with quality of care concerns if the applicant meets certain requirements and the Department is satisfied that the foster family home does not pose a risk to children and that the foster family home will be able to meet the physical and emotional needs of children. Provides that, if the Department approves a preliminary application, the foster family shall submit a standard application to the Department. Creates provisions for renewing the license for a foster family home with quality of care concerns. Requires a foster home to wait 5 years before applying for another license if it is revoked, is surrendered for cause, expires or is surrendered with certain holds in place or investigations pending, or the Department refuses to renew the license. Makes other changes.

LRB099 18099 SMS 42464 b

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Child Care Act of 1969 is amended by
5 changing Sections 4, 6, and 7 and by adding Section 2.22a as
6 follows:

7 (225 ILCS 10/2.22a new)

8 Sec. 2.22a. "Quality of care concerns". "Quality of care
9 concerns" means that a foster parent, including an unlicensed
10 relative, or any person living in the household, has:

11 (1) had a license issued under this Act revoked;

12 (2) surrendered a license issued under this Act for
13 cause;

14 (3) had a license issued under this Act expire or has
15 surrendered a license, while either an abuse or neglect
16 investigation or licensing investigation was pending or an
17 involuntary hold was placed on the home;

18 (4) been involved in multiple allegations of abuse or
19 neglect;

20 (5) an indicated report of abuse or neglect; or

21 (6) been the subject of certain types of involuntary
22 holds or has been involved in certain types of
23 substantiated licensing complaints, as specified and

1 defined by Department rule.

2 (225 ILCS 10/4) (from Ch. 23, par. 2214)

3 Sec. 4. License requirement; application; notice.

4 (a) Any person, group of persons or corporation who or
5 which receives children or arranges for care or placement of
6 one or more children unrelated to the operator must apply for a
7 license to operate one of the types of facilities defined in
8 Sections 2.05 through 2.19 and in Section 2.22 of this Act. Any
9 relative, as defined in Section 2.17 of this Act, who receives
10 a child or children for placement by the Department on a
11 full-time basis may apply for a license to operate a foster
12 family home as defined in Section 2.17 of this Act.

13 (a-5) Any agency, person, group of persons, association,
14 organization, corporation, institution, center, or group
15 providing adoption services must be licensed by the Department
16 as a child welfare agency as defined in Section 2.08 of this
17 Act. "Providing adoption services" as used in this Act,
18 includes facilitating or engaging in adoption services.

19 (b) Application for a license to operate a child care
20 facility must be made to the Department in the manner and on
21 forms prescribed by it. An application to operate a foster
22 family home shall include, at a minimum: a completed written
23 form; written authorization by the applicant and all adult
24 members of the applicant's household to conduct a criminal
25 background investigation; medical evidence in the form of a

1 medical report, on forms prescribed by the Department, that the
2 applicant and all members of the household are free from
3 communicable diseases or physical and mental conditions that
4 affect their ability to provide care for the child or children;
5 the names and addresses of at least 3 persons not related to
6 the applicant who can attest to the applicant's moral
7 character; and fingerprints submitted by the applicant and all
8 adult members of the applicant's household.

9 (b-5) If an applicant for a foster family home license, or
10 any member of the household, has previously been licensed to
11 operate a child care facility under this Act or has provided
12 relative foster care to a child placed by the Department and
13 has quality of care concerns, the applicant shall submit a
14 preliminary application to the Department in the manner and on
15 forms prescribed by it. The preliminary application shall
16 include a list of (i) all children placed in the home by the
17 Department who were removed by the Department for reasons other
18 than returning to a parent and the circumstances under which
19 they were removed, and (ii) all children placed by the
20 Department who were subsequently adopted by or placed in the
21 private guardianship of the applicant who are currently under
22 18 and who no longer reside in the home and the reasons why
23 they no longer reside in the home. The Department shall verify
24 the information in the preliminary application and review (i)
25 information regarding any prior licensing complaints, (ii)
26 information regarding any prior child abuse or neglect

1 investigations, and (iii) information regarding any
2 involuntary foster home holds placed on the home by the
3 Department.

4 Foster homes with quality of care concerns are presumed
5 unsuitable for future licensure. However, the Department may
6 make an exception and issue a foster family license to an
7 applicant with quality of care concerns if the Department is
8 satisfied that the foster family home does not pose a risk to
9 children and that the foster family will be able to meet the
10 physical and emotional needs of children. In making this
11 determination, the Department must obtain and carefully review
12 all relevant documents and shall obtain consultation from its
13 Clinical Division as appropriate and as prescribed by
14 Department rule and procedure.

15 The Department has the authority to deny a preliminary
16 application based on the record of quality of care concerns of
17 the foster family home. In the alternative, the Department may
18 (i) approve the preliminary application, (ii) approve the
19 preliminary application subject to obtaining additional
20 information or assessments, or (iii) approve the preliminary
21 application for purposes of placing a particular child or
22 children only in the foster family home. If the Department
23 approves a preliminary application, the foster family shall
24 submit an application for licensure as described in subsection
25 (b).

26 (c) The Department shall notify the public when a child

1 care institution, maternity center, or group home licensed by
2 the Department undergoes a change in (i) the range of care or
3 services offered at the facility, (ii) the age or type of
4 children served, or (iii) the area within the facility used by
5 children. The Department shall notify the public of the change
6 in a newspaper of general circulation in the county or
7 municipality in which the applicant's facility is or is
8 proposed to be located.

9 (d) If, upon examination of the facility and investigation
10 of persons responsible for care of children and, in the case of
11 a foster home, taking into account information obtained for
12 purposes of evaluating a preliminary application, if
13 applicable, the Department is satisfied that the facility and
14 responsible persons reasonably meet standards prescribed for
15 the type of facility for which application is made, it shall
16 issue a license in proper form, designating on that license the
17 type of child care facility and, except for a child welfare
18 agency, the number of children to be served at any one time.

19 (e) The Department shall not issue or renew the license of
20 any child welfare agency providing adoption services, unless
21 the agency (i) is officially recognized by the United States
22 Internal Revenue Service as a tax-exempt organization
23 described in Section 501(c)(3) of the Internal Revenue Code of
24 1986 (or any successor provision of federal tax law) and (ii)
25 is in compliance with all of the standards necessary to
26 maintain its status as an organization described in Section

1 501(c)(3) of the Internal Revenue Code of 1986 (or any
2 successor provision of federal tax law). The Department shall
3 grant a grace period of 24 months from the effective date of
4 this amendatory Act of the 94th General Assembly for existing
5 child welfare agencies providing adoption services to obtain
6 501(c)(3) status. The Department shall permit an existing child
7 welfare agency that converts from its current structure in
8 order to be recognized as a 501(c)(3) organization as required
9 by this Section to either retain its current license or
10 transfer its current license to a newly formed entity, if the
11 creation of a new entity is required in order to comply with
12 this Section, provided that the child welfare agency
13 demonstrates that it continues to meet all other licensing
14 requirements and that the principal officers and directors and
15 programs of the converted child welfare agency or newly
16 organized child welfare agency are substantially the same as
17 the original. The Department shall have the sole discretion to
18 grant a one year extension to any agency unable to obtain
19 501(c)(3) status within the timeframe specified in this
20 subsection (e), provided that such agency has filed an
21 application for 501(c)(3) status with the Internal Revenue
22 Service within the 2-year timeframe specified in this
23 subsection (e).

24 (Source: P.A. 98-804, eff. 1-1-15.)

25 (225 ILCS 10/6) (from Ch. 23, par. 2216)

1 Sec. 6. (a) A licensed facility operating as a "child care
2 institution", "maternity center", "child welfare agency", "day
3 care agency" or "day care center" must apply for renewal of its
4 license held, the application to be made to the Department on
5 forms prescribed by it.

6 (b) The Department, a duly licensed child welfare agency or
7 a suitable agency or person designated by the Department as its
8 agent to do so, must re-examine every child care facility for
9 renewal of license, including in that process the examination
10 of the premises and records of the facility as the Department
11 considers necessary to determine that minimum standards for
12 licensing continue to be met, and random surveys of parents or
13 legal guardians who are consumers of such facilities' services
14 to assess the quality of care at such facilities. In the case
15 of foster family homes, or day care homes under the supervision
16 of or otherwise required to be licensed by the Department, or
17 under supervision of a licensed child welfare agency or day
18 care agency, the examination shall be made by the Department,
19 or agency supervising such homes. If the Department is
20 satisfied that the facility continues to maintain minimum
21 standards which it prescribes and publishes, it shall renew the
22 license to operate the facility.

23 (b-5) In the case of a foster family home with quality of
24 care concerns, in addition to the examination required in
25 subsection (b) of this Section, the Department shall not renew
26 the license of a foster family home with quality of care

1 concerns unless the Department is satisfied that the foster
2 family home does not pose a risk to children and that the
3 foster family home will be able to meet the physical and
4 emotional needs of children. In making this determination, the
5 Department must obtain and carefully review all relevant
6 documents and shall obtain consultation from its Clinical
7 Division as appropriate and as prescribed by Department rule
8 and procedure. The Department has the authority to deny an
9 application for renewal based on a record of quality of care
10 concerns. In the alternative, the Department may (i) approve
11 the application for renewal subject to obtaining additional
12 information or assessments, (ii) approve the application for
13 renewal for purposes of placing or maintaining a particular
14 child or children only in the foster home, or (iii) approve the
15 application for renewal.

16 (c) If a child care facility's license, other than a
17 license for a foster family home, is revoked, or if the
18 Department refuses to renew a facility's license, the facility
19 may not reapply for a license before the expiration of 12
20 months following the Department's action; provided, however,
21 that the denial of a reapplication for a license pursuant to
22 this subsection must be supported by evidence that the prior
23 revocation renders the applicant unqualified or incapable of
24 satisfying the standards and rules promulgated by the
25 Department pursuant to this Act or maintaining a facility which
26 adheres to such standards and rules.

1 (d) If a foster family home license (i) is revoked, (ii) is
2 surrendered for cause, or (iii) expires or is surrendered with
3 either certain types of involuntary holds in place or while a
4 licensing or child abuse or neglect investigation is pending,
5 or if the Department refuses to renew a facility's license, the
6 facility may not reapply for a license before the expiration of
7 5 years following the Department's action or following the
8 expiration or surrender of the license.

9 (Source: P.A. 86-554.)

10 (225 ILCS 10/7) (from Ch. 23, par. 2217)

11 Sec. 7. (a) The Department must prescribe and publish
12 minimum standards for licensing that apply to the various types
13 of facilities for child care defined in this Act and that are
14 equally applicable to like institutions under the control of
15 the Department and to foster family homes used by and under the
16 direct supervision of the Department. The Department shall seek
17 the advice and assistance of persons representative of the
18 various types of child care facilities in establishing such
19 standards. The standards prescribed and published under this
20 Act take effect as provided in the Illinois Administrative
21 Procedure Act, and are restricted to regulations pertaining to
22 the following matters and to any rules and regulations required
23 or permitted by any other Section of this Act:

24 (1) The operation and conduct of the facility and
25 responsibility it assumes for child care;

1 (2) The character, suitability and qualifications of
2 the applicant and other persons directly responsible for
3 the care and welfare of children served. All child day care
4 center licensees and employees who are required to report
5 child abuse or neglect under the Abused and Neglected Child
6 Reporting Act shall be required to attend training on
7 recognizing child abuse and neglect, as prescribed by
8 Department rules;

9 (3) The general financial ability and competence of the
10 applicant to provide necessary care for children and to
11 maintain prescribed standards;

12 (4) The number of individuals or staff required to
13 insure adequate supervision and care of the children
14 received. The standards shall provide that each child care
15 institution, maternity center, day care center, group
16 home, day care home, and group day care home shall have on
17 its premises during its hours of operation at least one
18 staff member certified in first aid, in the Heimlich
19 maneuver and in cardiopulmonary resuscitation by the
20 American Red Cross or other organization approved by rule
21 of the Department. Child welfare agencies shall not be
22 subject to such a staffing requirement. The Department may
23 offer, or arrange for the offering, on a periodic basis in
24 each community in this State in cooperation with the
25 American Red Cross, the American Heart Association or other
26 appropriate organization, voluntary programs to train

1 operators of foster family homes and day care homes in
2 first aid and cardiopulmonary resuscitation;

3 (5) The appropriateness, safety, cleanliness and
4 general adequacy of the premises, including maintenance of
5 adequate fire prevention and health standards conforming
6 to State laws and municipal codes to provide for the
7 physical comfort, care and well-being of children
8 received;

9 (6) Provisions for food, clothing, educational
10 opportunities, program, equipment and individual supplies
11 to assure the healthy physical, mental and spiritual
12 development of children served;

13 (7) Provisions to safeguard the legal rights of
14 children served;

15 (8) Maintenance of records pertaining to the
16 admission, progress, health and discharge of children,
17 including, for day care centers and day care homes, records
18 indicating each child has been immunized as required by
19 State regulations. The Department shall require proof that
20 children enrolled in a facility have been immunized against
21 Haemophilus Influenzae B (HIB);

22 (9) Filing of reports with the Department;

23 (10) Discipline of children;

24 (11) Protection and fostering of the particular
25 religious faith of the children served;

26 (12) Provisions prohibiting firearms on day care

1 center premises except in the possession of peace officers;

2 (13) Provisions prohibiting handguns on day care home
3 premises except in the possession of peace officers or
4 other adults who must possess a handgun as a condition of
5 employment and who reside on the premises of a day care
6 home;

7 (14) Provisions requiring that any firearm permitted
8 on day care home premises, except handguns in the
9 possession of peace officers, shall be kept in a
10 disassembled state, without ammunition, in locked storage,
11 inaccessible to children and that ammunition permitted on
12 day care home premises shall be kept in locked storage
13 separate from that of disassembled firearms, inaccessible
14 to children;

15 (15) Provisions requiring notification of parents or
16 guardians enrolling children at a day care home of the
17 presence in the day care home of any firearms and
18 ammunition and of the arrangements for the separate, locked
19 storage of such firearms and ammunition; and

20 (16) Provisions requiring all licensed child care
21 facility employees who care for newborns and infants to
22 complete training every 3 years on the nature of sudden
23 unexpected infant death (SUID), sudden infant death
24 syndrome (SIDS), and the safe sleep recommendations of the
25 American Academy of Pediatrics.

26 (17) With respect to foster family homes, provisions

1 requiring the Department to review quality of care concerns
2 and to consider those concerns in determining whether a
3 foster family home is qualified to care for children.

4 (b) If, in a facility for general child care, there are
5 children diagnosed as mentally ill or children diagnosed as
6 having an intellectual or physical disability, who are
7 determined to be in need of special mental treatment or of
8 nursing care, or both mental treatment and nursing care, the
9 Department shall seek the advice and recommendation of the
10 Department of Human Services, the Department of Public Health,
11 or both Departments regarding the residential treatment and
12 nursing care provided by the institution.

13 (c) The Department shall investigate any person applying to
14 be licensed as a foster parent to determine whether there is
15 any evidence of current drug or alcohol abuse in the
16 prospective foster family. The Department shall not license a
17 person as a foster parent if drug or alcohol abuse has been
18 identified in the foster family or if a reasonable suspicion of
19 such abuse exists, except that the Department may grant a
20 foster parent license to an applicant identified with an
21 alcohol or drug problem if the applicant has successfully
22 participated in an alcohol or drug treatment program, self-help
23 group, or other suitable activities and if the Department
24 determines that the foster family home can provide a safe,
25 appropriate environment and meet the physical and emotional
26 needs of children.

1 (d) The Department, in applying standards prescribed and
2 published, as herein provided, shall offer consultation
3 through employed staff or other qualified persons to assist
4 applicants and licensees in meeting and maintaining minimum
5 requirements for a license and to help them otherwise to
6 achieve programs of excellence related to the care of children
7 served. Such consultation shall include providing information
8 concerning education and training in early childhood
9 development to providers of day care home services. The
10 Department may provide or arrange for such education and
11 training for those providers who request such assistance.

12 (e) The Department shall distribute copies of licensing
13 standards to all licensees and applicants for a license. Each
14 licensee or holder of a permit shall distribute copies of the
15 appropriate licensing standards and any other information
16 required by the Department to child care facilities under its
17 supervision. Each licensee or holder of a permit shall maintain
18 appropriate documentation of the distribution of the
19 standards. Such documentation shall be part of the records of
20 the facility and subject to inspection by authorized
21 representatives of the Department.

22 (f) The Department shall prepare summaries of day care
23 licensing standards. Each licensee or holder of a permit for a
24 day care facility shall distribute a copy of the appropriate
25 summary and any other information required by the Department,
26 to the legal guardian of each child cared for in that facility

1 at the time when the child is enrolled or initially placed in
2 the facility. The licensee or holder of a permit for a day care
3 facility shall secure appropriate documentation of the
4 distribution of the summary and brochure. Such documentation
5 shall be a part of the records of the facility and subject to
6 inspection by an authorized representative of the Department.

7 (g) The Department shall distribute to each licensee and
8 holder of a permit copies of the licensing or permit standards
9 applicable to such person's facility. Each licensee or holder
10 of a permit shall make available by posting at all times in a
11 common or otherwise accessible area a complete and current set
12 of licensing standards in order that all employees of the
13 facility may have unrestricted access to such standards. All
14 employees of the facility shall have reviewed the standards and
15 any subsequent changes. Each licensee or holder of a permit
16 shall maintain appropriate documentation of the current review
17 of licensing standards by all employees. Such records shall be
18 part of the records of the facility and subject to inspection
19 by authorized representatives of the Department.

20 (h) Any standards involving physical examinations,
21 immunization, or medical treatment shall include appropriate
22 exemptions for children whose parents object thereto on the
23 grounds that they conflict with the tenets and practices of a
24 recognized church or religious organization, of which the
25 parent is an adherent or member, and for children who should
26 not be subjected to immunization for clinical reasons.

1 (i) The Department, in cooperation with the Department of
2 Public Health, shall work to increase immunization awareness
3 and participation among parents of children enrolled in day
4 care centers and day care homes by publishing on the
5 Department's website information about the benefits of
6 immunization against vaccine preventable diseases, including
7 influenza and pertussis. The information for vaccine
8 preventable diseases shall include the incidence and severity
9 of the diseases, the availability of vaccines, and the
10 importance of immunizing children and persons who frequently
11 have close contact with children. The website content shall be
12 reviewed annually in collaboration with the Department of
13 Public Health to reflect the most current recommendations of
14 the Advisory Committee on Immunization Practices (ACIP). The
15 Department shall work with day care centers and day care homes
16 licensed under this Act to ensure that the information is
17 annually distributed to parents in August or September.

18 (j) Any standard adopted by the Department that requires an
19 applicant for a license to operate a day care home to include a
20 copy of a high school diploma or equivalent certificate with
21 his or her application shall be deemed to be satisfied if the
22 applicant includes a copy of a high school diploma or
23 equivalent certificate or a copy of a degree from an accredited
24 institution of higher education or vocational institution or
25 equivalent certificate.

26 (Source: P.A. 98-817, eff. 1-1-15; 99-143, eff. 7-27-15.)